

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

EXXON MOBIL CORPORATION,	§	
	§	
	§	
Plaintiff,	§	
	§	
v.	§	NO. 4:16-CV-469-K
	§	
ERIC TRADD SCHNEIDERMAN,	§	
Attorney General of New York, in his	§	
official capacity, and MAURA TRACY	§	
HEALEY, Attorney General of	§	
Massachusetts, in her official capacity.	§	
	§	
Defendants.	§	

**DEFENDANT NEW YORK ATTORNEY GENERAL'S
MOTION TO QUASH AND FOR A PROTECTIVE ORDER**

Defendant, Eric T. Schneiderman, in his official capacity as the New York Attorney General, by and through counsel, hereby moves to quash discovery and for a protective order pursuant to Rule 26 of the Federal Rules of Civil Procedure.

1. On November 17 , 2016, the New York Office of the Attorney General (“NYOAG”) received the following from Exxon Mobil Corporation (“Exxon”):

- Plaintiff Exxon Mobil Corporation’s First Request to Defendant Eric Schneiderman for the Production of Documents;
- Plaintiff Exxon Mobil Corporation’s First Set of Requests for Admission to Defendant Eric Schneiderman;
- Plaintiff Exxon Mobil Corporation’s First Set of Interrogatories to Defendant Eric Schneiderman;
- Plaintiff Exxon Mobil Corporation’s Notice of Deposition of Monica Wagner, Deputy Chief of the Environmental Protection Bureau of the Office of the Attorney General of New York at 10:00 am on November 21, 2016;

- Plaintiff Exxon Mobil Corporation's Notice of Deposition of Lemuel Srolovic, Bureau Chief of the Environmental Protection Bureau of the Office of the Attorney General of New York at 10:00 am on November 28, 2016; and
- Plaintiff Exxon Mobil Corporation's Notice of Deposition of Eric Schneiderman, Attorney General of the New York, at 10:00 am on December 5, 2016.

2. On November 18, 2016, the NYOAG received from Exxon the following Notices of Deposition "in lieu of" its November 17, 2016 Deposition Notices of Monica Wagner and Lemuel Srolovic:

- Plaintiff Exxon Mobil Corporation's Notice of Deposition of Monica Wagner, Deputy Chief of the Environmental Protection Bureau of the Office of the Attorney General of New York at 10:00 am on December 9, 2016;
- Plaintiff Exxon Mobil Corporation's Notice of Deposition of Lemuel Srolovic, Bureau Chief of the Environmental Protection Bureau of the Office of the Attorney General of New York at 10:00 am on December 12, 2016.

3. On November 29, Exxon withdrew its Notice of Deposition of Eric Schneiderman, Attorney General of the New York.

4. This Court should quash all of Exxon's outstanding discovery requests (*supra* ¶¶ 2-3) (together, "Discovery Requests") for several reasons.

5. First, discovery is not necessary to resolve the NYOAG's Motion to Dismiss Exxon's First Amended Complaint, because the absence of personal jurisdiction is dispositive, and burdensome discovery violates the principles of *Younger v. Harris*, 401 U.S. 37 (1971).

6. Second, the Discovery Requests were issued in violation of Rule 26(d) of the Federal Rules of Civil Procedure.

7. Third, the Discovery Requests seek privileged, protected testimony, because the deposition of the Attorney General and Senior NYOAG attorneys would necessarily elicit

privileged information, and the document requests and written discovery plainly seek privileged information.

PRAYER

For those reasons and those set out in the Memorandum of Law in Support of the New York Attorney General's Motion to Quash and for a Protective Order, the Court should quash Exxon's Discovery Requests and issue a protective order, prohibiting the taking of discovery from the NYOAG pending a determination of its Motion to Dismiss.

Respectfully submitted,

ERIC T. SCHNEIDERMAN
Attorney General of New York

By his attorneys:

Jason Brown*
Chief Deputy Attorney General
Leslie B. Dubeck*
Counsel to the Attorney General
John Castiglione*
Assistant Attorney General
NEW YORK STATE OFFICE OF THE
ATTORNEY GENERAL
120 Broadway, 25th Floor
New York, NY 10271
212-416-8085

**pro hac vice application forthcoming*

s/ Pete Marketos
Pete Marketos
Lead Attorney
Texas State Bar No. 24013101
pete.marketos@rgmfirm.com
Tyler J Bexley
Texas State Bar No. 24073923
tyler.bexley@rgmfirm.com
REESE GORDON MARKETOS LLP
750 N. Saint Paul St. Suite 610
Dallas, TX 75201
(214) 382-9810
Fax: (214) 501-0731

Jeffrey M. Tillotson, P.C.
Texas Bar No. 20039200
jtillotson@TillotsonLaw.com
TILLOTSON LAW
750 N. Saint Paul Street, Suite 610
Dallas, Texas 75201
Telephone: (214) 382-3041
Facsimile: (214) 501-0731

Dated: December 5, 2016

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on December 5, 2016, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system. Any other counsel of record will be served in accordance with the Federal Rules of Civil Procedure.

s/ Pete Marketos
Pete Marketos

CERTIFICATE OF CONFERENCE

On December 5, 2016, Counsel for Movants spoke with counsel for Plaintiff Exxon Mobil Justin Anderson and discussed the merits of the requested relief. Despite that discussion, no agreement was reached and Plaintiff opposes the relief sought by way of this motion.

s/ Pete Marketos
Pete Marketos